

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 04-15772
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JUNE 13, 2005 THOMAS K. KAHN CLERK</p>

D.C. Docket No. 04-20227-CR-DLG

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ASBERT ANAZCO,

Defendant-Appellant.

Appeal from the United States District Court for the
Southern District of Florida

(June 13, 2005)

Before TJOFLAT, BIRCH and BARKETT, Circuit Judges.

PER CURIAM:

Appellant was convicted in the district court of violating 18 U.S.C. § 371 by
conspiring to obstruct justice in violation of 18 U.S.C. § 1503 (Count 1), of the

substantive § 1503 offense (Count 3), and of witness tampering in violation of 18 U.S.C. § 1512(b)(3), and the court sentenced him to concurrent prison terms of 18 months. He now appeals his sentences, contending that the court committed Blakely error,¹ now recognized as Booker error.² The Government concedes the error and recommends that the case be remanded for resentencing because “the record in this case does not permit the government to assert with confidence that there is no reasonable probability of a different result if the guidelines had been applied in an advisory, rather than mandatory, fashion.”

We agree.

VACATED and REMANDED.

¹ Blakely v. Washington, 542 U.S. ___, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004).

² United States v. Booker, 543 U.S. ___, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005).